

009853

MAY 30 1995

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Christopher B. Amandes
Vinson & Elkins
2300 First City Tower
1001 Fannin Street
Houston, Texas 77002-6760

Dear Mr. Amandes:

The Environmental Protection Agency (EPA) is in receipt of your letter dated May 18, 1995, regarding the Crystal Chemical Company Superfund site in Houston, Texas. EPA is aware of the site's impact on property owned by your client, Mr. Theodore Levy, which is located immediately north of the Crystal Chemical site.

As you acknowledge in your letter, EPA is currently discussing the possibility of a technical impracticability waiver for the ground water remedy selected in the Record of Decision issued in September 1990 (1990 ROD). The technical impracticability waiver, if granted, would involve only part of the Crystal Chemical site. The selected ground water remedy of extraction and treatment of arsenic-contaminated ground water would be implemented on the remaining area impacted by contaminated ground water.

The 1990 ROD identifies the area covered by contaminated ground water, which includes your client's property (refer to Figure 13). The 1990 ROD states that the goal of the ground water remedial action is to restore the ground water to a useable state; however, the ROD also states that the ability to achieve the goal may not be attainable. The ROD describes contingency measures to be implemented if it should be determined that an extraction system is unable to achieve the goal. The contingency measures described in the ROD include, among other things, removal of source material; waiving of the ground water remediation goal; and/or construction of a slurry wall. The 1990 ROD does provide that the contingency measure(s) may be implemented after 10 years of evaluating the performance of the ground water remedy; however, EPA feels that it would be more prudent and protective of human health and the environment to evaluate the contingency measures at this time.

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As we discussed during a recent telephone conversation, the issue and the apparent need for a technical impracticability waiver for a portion of the area covered by contaminated ground water that is associated with the site became apparent during the design phase of the extraction and treatment remedy. EPA specified in the 1990 ROD that a more thorough investigation of the substrate be conducted in order to design a more efficient and effective extraction and treatment system. It was only during the course of these investigations that it became apparent that, due to the heterogeneous nature of the geology, significant removal of contamination is not possible.

Southern Pacific Transportation Company has performed the investigations and design of the ground water remedy for the Crystal Chemical site pursuant to an Administrative Order on Consent. When the data was being evaluated by Southern Pacific and the potential effectiveness of the selected remedy came into question, Southern Pacific suggested that a slurry wall be constructed, instead of the other identified contingency measures in the 1990 ROD.

The documentation for the technical impracticability waiver request has been reviewed by EPA, and EPA believes that a technical impracticability waiver may be warranted for a portion of the area covered by contaminated ground water. I believe that Southern Pacific forwarded to you and/or your client a copy of the draft Assessment of the Technical Impracticability of Ground-Water Remediation, dated March 1995. EPA received this draft report and has made comments, and the report is currently being revised to address EPA's comments. Pursuant to OsWER Directive 9234.2-25: "*Guidance for Evaluating the Technical Impracticability of Ground Water Restoration*," dated September 1993, the Assessment of the Technical Impracticability of Ground-Water Remediation will be submitted to the R.S Kerr Environmental Research Laboratory for review, and to EPA Headquarters for consultation, before a waiver is granted.

Based on the facts that a slurry wall was identified as one of the contingency measures in the 1990 ROD, a waiver is being requested for only a portion of the area covered by contaminated ground water, and that the selected remedy for ground water will be implemented on the rest of the site, EPA will not consider the granting of the technical impracticability waiver in conjunction with the implementation of extraction remedy and the construction of a slurry wall a fundamental change to the ground water remedy. Therefore, pursuant to 40 CFR 300.435(c)(2)(i), if the waiver is granted, an Explanation of Significant Difference will be issued and there will be a public notice.

As your client is affected by the activities associated with the remediation of the Crystal Chemical site, EPA as well as Southern Pacific must be cognizant of Mr. Levy's concerns. EPA welcomes Mr. Levy's involvement in the discussions for the implementation of the site's ground water remedy.

If you have any questions regarding this matter or any other matters, please call me at (214) 665-6744.

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Sincerely,

Lisa Marie Price
Remedial Project Manager
Texas Enforcement Superfund

cc: Anne Foster
Regional Counsel
EPA Region 6

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PS Form 3800, June 1985

*U.S.G.P.O. 1989-234-555

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Mr. Christopher B. Amandes
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1001 Fannin Street
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PS Form 3811, December 1991

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